

Introduced by Senator MachadoFebruary 23, 2001

An act to amend Section 66484.5 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1145, as introduced, Machado. Subdivision Map Act: fees.

The Subdivision Map Act authorizes the legislative body of a local agency to adopt an ordinance that requires the payment of a fee as a condition of approval of a subdivision requiring a final or parcel map, or as a condition of issuing a building permit in an area of benefit under a groundwater recharge facility plan adopted, as specified, for the purpose of constructing recharge facilities for the replenishment of the underground water supply in that area of benefit. The act also provides that the ordinance may require payment of fees if, at the time of payment, specified requirements are satisfied.

This bill would require that the groundwater recharge facility plan be sent to the State Water Resources Control Board for review and comments prior to its adoption by the legislative body of the local agency. The bill would also authorize the legislative body of the local agency to adopt the plan prior to receiving the board's comments.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 66484.5 of the Government Code is
2 amended to read:



1 66484.5. (a) The legislative body of a local agency may
2 adopt an ordinance requiring the payment of a fee as a condition
3 of approval of a subdivision requiring a final or parcel map, or as
4 a condition of issuing a building permit in an area of benefit under
5 a groundwater recharge facility plan adopted as provided in this
6 section, for the purpose of constructing recharge facilities for the
7 replenishment of the underground water supply in that area of
8 benefit. The ordinance may require payment of fees pursuant to
9 this section if, at the time of payment, all of the following
10 requirements are satisfied:

11 (1) A groundwater recharge facility plan for the area to be
12 benefited has been adopted by the legislative body of the local
13 agency. The legislative body shall not adopt the plan until it has
14 given notice to, and consulted with, the water agency then
15 obligated to furnish water to the area to be benefited and the water
16 agency has formally and in writing approved the plan. *The*
17 *legislative body of the local agency shall not adopt the plan until*
18 *it has been sent to the State Water Resources Control Board. The*
19 *board may review the plan and remit comments to the local agency.*
20 *The legislative body of the local agency may adopt the plan prior*
21 *to receiving comments from the board.*

22 (2) The ordinance has been in effect for a period of at least 30
23 days prior to the filing of the tentative map, parcel map if no
24 tentative map is required, or the application for a building permit.

25 (3) The ordinance provides that before any groundwater
26 recharge facility plan is adopted there will be a public hearing held
27 by the legislative body for the proposed area of benefit.

28 Notice of the hearing on a proposed area of benefit shall be given
29 pursuant to Section 65091 and shall include preliminary
30 information concerning the groundwater recharge facility plan,
31 including the proposed boundaries of the area of benefit, the
32 availability of surface water, *the availability of groundwater*, the
33 planned facilities for the area of benefit, estimated costs, and the
34 proposed method of fee apportionment.

35 Written notice of the public hearing shall be given by personal
36 service or mail to the water agency responsible for furnishing
37 water to the area of benefit involved in the hearing prior to or at
38 the time notice is given by mail or by publication and posting. The
39 proposal contained in the mailed, published, or posted notice shall
40 be jointly prepared and agreed upon by the local agency and the



1 water agency before that notice is given. The water agency may
2 participate in the hearings.

3 (4) The ordinance provides that the groundwater recharge
4 facility plan shall be established at the public hearing and, if
5 approved, adopted by the legislative body. The plan shall include
6 the boundaries of the area of benefit, the availability of surface
7 water, the planned facilities for the area of benefit and the
8 estimated cost thereof, a fair method of allocating the costs within
9 the area of benefit, and the apportionment of fees within the area.
10 The plan, as adopted by the local agency and approved by the water
11 agency, shall be incorporated in a resolution of the legislative body
12 and a certified copy of the plan shall be recorded with the county
13 recorder. The apportioned fees shall be applicable to all property
14 within the area of benefit and shall be payable as a condition of
15 approval of a final map or a parcel map or as a condition of issuing
16 a building permit for the property or portions of the property.
17 Where the area of benefit includes lands not otherwise subject to
18 the payment of fees pursuant to this section, the legislative body
19 shall make provision for payment of the share of improvement
20 costs apportioned to that land by other means.

21 (5) The ordinance provides that if, within the time when
22 protests may be filed under the provisions of the ordinance, there
23 is a written protest, filed with the clerk of the legislative body, by
24 the owners of more than one-half of the area of the property to be
25 benefited by the improvement, and sufficient protests are not
26 withdrawn so as to reduce the area represented to less than one-half
27 of the property to be benefited, then the proposed proceedings
28 shall be abandoned, and the legislative body shall not, for one year
29 from the filing of that written protest, commence or carry on any
30 proceedings for the same improvement or acquisition under the
31 provisions of this section.

32 (b) Any protests may be withdrawn in writing by the owner
33 who made the protest, at any time prior to the conclusion of a
34 public hearing held pursuant to the ordinance.

35 (c) If any majority protest is directed against only a portion of
36 the improvement, then all further proceedings under this section
37 as to that portion of the improvement so protested against shall be
38 barred for a period of one year. The legislative body, however, may
39 commence new proceedings which do not include the area,
40 acquisitions, or improvements which were the subject of the

1 successful protest. Nothing in this section prohibits the legislative
2 body, within that one-year period, from commencing and carrying
3 on new proceedings for that portion of the improvement so
4 protested against if it finds, by the affirmative vote of four-fifths
5 of its members, that the owners of more than one-half of the area
6 of the property to be benefited are in favor of going forward with
7 that portion of the improvement or acquisition.

8 (d) Nothing in this section precludes the processing and
9 recordation of maps in accordance with other provisions of this
10 division if proceedings are abandoned.

11 (e) Subsequent to the adoption of a plan, the local agency may
12 itself construct, operate, and maintain the groundwater recharge
13 facilities, or it may designate the water agency furnishing the water
14 or designate or create another agency to do all or any one of these
15 things as authorized by law. In the event any agency other than the
16 local agency adopting such ordinances is so designated, the
17 services so rendered shall be pursuant to a written agreement
18 entered into between the local agency and the other agency.

19 (f) Fees paid pursuant to an ordinance adopted pursuant to this
20 section shall be deposited in a planned recharge facility fund. A
21 fund shall be established for each area of benefit. Money in the
22 fund shall be expended solely for the construction or
23 reimbursement for construction of the improvement serving the
24 area to be benefited.

25 The fees shall not be expended to reimburse the cost of recharge
26 facilities in existence prior to the adoption of the groundwater
27 recharge facility plan for that area.

28 (g) An ordinance adopted pursuant to this section may provide
29 for the acceptance of considerations in lieu of the payment of fees.

30 (h) A local agency imposing fees pursuant to this section may
31 advance money from its general fund to pay the cost of
32 constructing the improvements and may reimburse the general
33 fund for those advances from planned recharge facility funds
34 collected to finance the construction of these improvements.

35 (i) A local agency imposing fees pursuant to this section may
36 incur an interest-bearing indebtedness for the construction of
37 recharge facilities. However, the sole security for repayment of
38 that indebtedness shall be money in planned recharge facility
39 funds.

(j) Recharge facilities shall not be constructed unless the water agency approves the design of the facilities to be constructed and has reached an agreement with the local agency establishing the terms and conditions under which the water will be furnished. If the water agency finds that the facilities have been constructed in accordance with the approved design, the agency shall furnish water for the groundwater recharge facilities.

(k) If the water agency is an irrigation district or other entity obligated by law to apportion water among the landowners within the area of benefit, the water agency shall receive credit upon the obligation for any water delivered for groundwater recharge under the agreement and shall be relieved of any further obligation to deliver the amount of water for which it has received such credit to the landowners or lands within that area.

(l) Nothing contained in this section entitles a local agency to collect a fee from a landowner who presently receives and continues to receive and use the landowner's pro rata share of surface water from the agency responsible for that area or from a landowner who has not applied for approval of a final or parcel map or a building permit.

(m) A credit for fees paid as authorized by this section shall be applied against any assessment levied by the local agency to construct the planned recharge facilities.

(n) ~~The term "construction," as used in this section,~~ *For purposes of this section:*

(1) "Construction" includes design, acquisition of land or easements, administration of construction contracts, and actual construction.

~~(o) The term "water agency," as used in this section,~~

(2) "Water agency" means the public or other entity that will furnish water for the operation and use of a recharge facility under a groundwater recharge facility plan adopted by a local agency pursuant to this section.

~~(p)~~-(o) Nothing in this section precludes a county or city from providing funds for the construction of recharge facilities to defray costs not allocated to the area of benefit.